

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

ARTHUR ARNOLD,)
Plaintiff,)
V.) Civil No. **08-234-DRH**
MILLER, et al.,)
Defendants.)

ORDER

PROUD, Magistrate Judge:

Before the Court is defendant Elk River's motion (**Doc. 82**) for reconsideration of the Court's October 10, 2008, Order (**Doc. 80**) striking Elk River's Request for Admissions (**Doc. 78**). The Court previously ruled that the request for admissions was filed outside of the time allotted for limited discovery relative to the issue of personal jurisdiction. The Court further noted that the timing of the requests confirmed that the requests were not pertinent to the motion to dismiss for lack of personal jurisdiction. Elk River now argues that requests for admissions are not discovery, *per se*. Rather, Elk River argues that requests for admission are merely a tool to whittle away issues of proof.

The Advisory Committee Notes to the 1970 Amendments to Federal Rule of Civil Procedure 36 reflect that requests for admissions are a "discovery procedure," but their aim is to: (1) "facilitate proof with respect to issues that cannot be eliminated from the case;" and (2) "to narrow the issues." Regardless, Elk River fails to appreciate the posture of this case. Chief Judge Herndon has elected to decide the motion to dismiss for lack of personal jurisdiction *before* prescribing the usual pretrial schedule. (*See Docs. 47 and 53*). Therefore, at this

juncture requests for admission not relevant to the issue of personal jurisdiction are premature.

IT IS THEREFORE ORDERED that Elk River's motion for reconsideration of the Court's October 10, 2008, Order (**Doc. 82**) is **DENIED**.

IT IS SO ORDERED.

DATED: November 18, 2008

s/ Clifford J. Proud
CLIFFORD J. PROUD
U. S. MAGISTRATE JUDGE